

# TASK FORCE TO STUDY MAINE'S HOMELAND SECURITY NEEDS

## DRAFT LEGISLATION

### **Title: A/A to Enhance the Protection of Maine Families from Terrorism and Natural Disasters**

Be it enacted by the People of Maine as follows:

**Sec. 1.** 5 M.R.S.A. §1532, sub-§2, is amended to read:

#### **§1532. Maine Budget Stabilization Fund**

**1. Generally; stabilization fund established.** The Maine Budget Stabilization Fund is hereby established. Amounts in the stabilization fund may not exceed 12% of total General Fund revenues in the immediately preceding state fiscal year and, except as provided by section 1533, may not be reduced below 1% of total General Fund revenue in the immediately preceding state fiscal year. For the purposes of this subsection, at the close of a fiscal year, "immediately preceding state fiscal year" means the fiscal year that is being closed.

**2. Expenditures from fund.** Except as otherwise provided in this section, amounts in the stabilization fund may be expended only to offset a General Fund revenue shortfall; except that the Governor is authorized to transfer up to three million dollars to the Disaster Relief Fund, as long as the transfer does not create a balance in the fund of more than three million dollars.

**3. Fund to be nonlapsing.** The balance of the stabilization fund may not lapse but must be carried forward to carry out the purposes of this chapter.

**4. Investment of funds.** The money in the stabilization fund may be invested as provided by law with the earnings credited to the stabilization fund.

**5. Investment proceeds; exception.** At the close of every month during which the stabilization fund is at the 12% limitation described in subsection 1, the State Controller shall transfer from the General Fund to the Retirement Allowance Fund established in section 17251 an amount equal to the investment earnings that otherwise would have been credited to the stabilization fund.

**6. Death benefits.** The Governor shall allocate funds from the stabilization fund as needed to pay benefits due pursuant to Title 25, chapter 195-A. Allocations may be made upon written request of the Chief of the State Police, the State Fire Marshal or the Director of Maine Emergency Medical Services and after consultation with the State Budget Officer.

Sec. 2. Title 5, §12004-I, sub-§ 91 is enacted to read:

§ 91. Emergency Management (Field). (Name of Organization) Homeland Security Advisory Council. (Rate of Compensation) Not Authorized. (Statutory Reference) 37-B M.R.S.A. §709.

Sec. 3. Title 20-A, §15908 is amended to read:

**§15908. Design limits**

**1. Technical assistance.** In order to provide the technical assistance required by the state board in assessing proposed school construction projects, the Bureau of Public Improvements may contract for the services of a professional engineer whenever the bureau not employing qualified personnel on a full-time basis.

**2. Energy conservation standards.** The state board shall approve only those projects which have been designed in accordance rigorous standards for the conservation of energy.

**3. Life-cycle costs.** The department and the Bureau of Public Improvements may not approve the plans and specifications of a project which does not meet the requirements of Title 5, chapter 153, subchapter I-A.

**4. Consistent siting.** The state board shall adopt criteria governing applications under this chapter to direct construction projects new schools to areas determined suitable under the provisions of Title 30-A, chapter 187, subchapter II, by the municipality within which the project will be located. The board may not require a minimum contiguous parcel size for the project as a condition of approval.

**5. Emergency Generators.** The state board shall approve only those projects that have been designed to include back-up energy generators or that are wired for portable energy generators for use as public shelters.

Sec. 4. Title 22, §10-A is enacted to read:

**§10-A. Coordination and reporting on expenditure of funds pertaining to homeland security and bioterrorism prevention**

The Director of the Maine Center for Disease Control and Prevention shall coordinate in a mutually agreed upon manner with the Director of the Maine Emergency Management Agency on the planning and expenditure of all federal funds received by the Maine Center for Disease Control and Prevention for homeland security emergency preparedness purposes or for the prevention of bioterrorism and provide a report annually, beginning December 15, 2006, to the Homeland Security Advisory Council. The Homeland Security Advisor for the Council shall report by January 15<sup>th</sup> of each year, beginning in 2007, on the expenditure of such funds to the joint standing committee

having jurisdiction over health and human service matters and the joint standing committee having jurisdiction over criminal justice and public safety matters. The report must include, but is not limited to, the amount of funds expended in the prior year, the purpose of those expenditures, the effect of those expenditures on homeland security or bioterrorism prevention and the plans for coordination with the Maine Emergency Management Agency for the expenditure of the funds received or anticipated for such purposes in the two years following submission of the report.

**Sec. 5. Title 37-B, §704-A is amended to read:**

**§704. Director; duties**

The Maine Emergency Management Agency, as previously established and in this chapter called the "agency," shall be under the supervision of the Director of the Maine Emergency Management Agency, who in this chapter shall be called the "director." The director shall be qualified by education, training or experience in the emergency management profession, and must be appointed by the Governor, subject to review by the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety and confirmation by the Legislature and serve at the pleasure of the Governor;

The director may employ technical, clerical, stenographic, administrative and operative assistants and other personnel, subject to the Civil Service Law, and make expenditures, with approval of the commissioner, that are necessary to carry out the purposes of this chapter.

~~The director, subject to the direction and control of the commissioner, is responsible~~ administratively to the commissioner, retains direct access to the Governor during an emergency and is responsible for notifying the Governor and the commissioner of all emergencies. The director is the executive head of the agency and is responsible for carrying out the program for emergency management. The director shall represent the Governor on all matters pertaining to the comprehensive emergency management program and the disaster and emergency response of the State; shall coordinate the activities of all organizations for emergency management within the State; shall maintain liaison with and cooperate with emergency management and public safety agencies and organizations of other states, the Federal Government and foreign countries, and their political subdivisions; prior to the annual meeting required in section 782, subsection 4, shall provide to each of the local emergency management organizations of the State an annual assessment of each organization's degree of emergency management capability and any other information pertinent to ensuring the public's welfare and safety within the local organization's jurisdiction; and has additional authority, duties and responsibilities as may be prescribed by the commissioner or the Governor.

The director shall not require any political subdivision to participate in any program of nuclear civil protection planning. The director, in consultation with the Office of Chief Medical Examiner, shall prepare a plan for the recovery, identification and disposition of human remains in a disaster. The Office of Chief Medical Examiner is responsible for execution of the plan, with full cooperation and assistance from all other members of the emergency management forces.

This plan must be reviewed and updated as necessary. The director shall see that the plan and the reviews receive suitable dissemination on a timely basis.

The Director shall conduct periodic assessments at least once every two years beginning January 15, 2007, of the use of public safety radio frequencies in emergency situations to ensure that the first responder community obtains sufficient training to understand and comply with adopted protocols and procedures.

The Director shall develop and produce emergency preparedness public service announcements to be broadcasted regularly on local broadcasting networks to educate and inform members of the public.

**Sec. 6. Title 37-B, §708** is enacted to read:

**§ 708. Legislative jurisdiction**

All duties of the agency and the director are within the jurisdiction of the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety.

**Sec. 7. Title 37-B, §709** is enacted to read:

**§709. Homeland Security Advisory Council**

The Homeland Security Advisory Council, as established in Title 5, Section 12004-I, sub-section 91, and referred to in this section as the “council,” advises the Governor on the homeland security activities of state agencies to ensure coordination among agencies and effective use of grant funds. The Maine Emergency Agency will provide staff and administrative support to the council from existing resources.

1. **Membership.** The council shall be composed of the following 6 members:

- a) The Director of the Maine Emergency Management Agency
- b) The Commissioner of Defense, Veterans and Emergency Management
- c) The Commissioner of Public Safety
- d) The Director of the Bureau of Health
- e) The Chief of the Maine State Police
- f) A representative of the Governor

The chair of the council shall be the Director of MEMA. The advisor of the council shall be the Commissioner of Defense, Veterans and Emergency Management.

2. **Duties of the Council.** The Council shall:

- a) Advise the Governor with regard to the vulnerability of the State of Maine to terrorist activity;
- b) Advise the Governor with regard to the adequacy of the plans to enhance homeland security;
- c) Ensure the homeland security activities of state agencies are coordinated;
- d) Advise the Governor with regard to the implementation of state programs using federal funds and administration of federal grants for homeland security, in order to ensure coordination among agencies and the most effective use of grant funds;
- e) Advise the Governor with regard to the appropriate level of Homeland Security Threat Advisory in the State of Maine, based upon intelligence gathered in the state and from federal sources;
- f) Advise the Governor with regard to the appropriate response to any terrorist threat; and
- g) Periodically advise the Emergency Response Team of pertinent information that could assist in their response to an event.

3. **Procedures.** The Council shall:

- a) Meet at times and places as determined by the Chair or the Governor and with assistance from state agencies as necessary and appropriate for the Council's execution of its responsibilities described herein;
- b) Meet, either physically or via telecommunication, as determined by the Chair, immediately upon notification that the Federal Homeland Security Threat Advisory Level will be changed, in order to develop a recommendation to the Governor of the appropriate Threat Advisory Level and action steps for Maine; and
- c) Meet at the call of the Chair or the Governor at any time the Governor requires the advice of the Council.

The state response to any suspected terrorist event will be coordinated through the State Emergency Operations Center, in accordance with the State Emergency Operations Plan. Meetings of the Council are not "public proceedings" for purposes of Title 1, M.R.S.A., Chapter 13, but may be open to the public at the discretion of the Chair. Documents collected or produced by the Council are not public records.

4. **Resources and Support.** The Maine Emergency Management Agency is responsible for providing staff and administrative support to the council from existing resources. The Maine Emergency Management Agency is the coordinating agency within state government for homeland security operational preparedness, response, recovery and mitigation.

As the coordinating agency, MEMA shall:

- a. Develop and maintain the State Emergency Operations Plan, which will incorporate by reference any internal operational plans developed by other state agencies for emergency response;
- b. Coordinate the State Emergency Operations Center;
- c. Coordinate with other state agencies in the development of their emergency response plans;
- d. Coordinate the review and approval of all grant applications developed by local and state agencies for homeland security funds; and
- e. Administer homeland security grant funds.

**Sec. 8. 37-B M.R.S.A. §745 is amended to read:**

**§745. Disaster Relief Fund**

1. Fund established. There is established the Disaster Relief Fund, referred to in this section as "the fund," to be administered by the agency.

2. Sources of fund. The following must be paid into the fund:

A. All money appropriated for inclusion in the fund;

B. All interest from investment of the fund; ~~and~~

C. Any other money deposited in the fund to implement the provisions of this subchapter; and

D. Any money transferred into the fund from the Maine Budget Stabilization Fund, established in Title 5 section 1532.

3. Use of fund. The fund must be the ~~first~~ last resource used when section 742 or 744 is invoked. The fund may also be used for the purpose of matching federal funds in the event of a federally declared disaster.

4. Fund balance. The fund's balance may not exceed \$3,000,000. No more than \$3,000,000 may be deposited into or expended from the fund within a state fiscal year. Any amount, including interest, that accrues in excess of three million dollars shall be transferred by the State Controller to the Maine Budget Stabilization Fund, established in Title 5, section 1532.

5. Annual report. The director shall submit a written report annually beginning on January 15, 2007, to the Governor and the Legislature on the fund's balance and expenditures.

**Sec. 9. Title 3, §959, sub-§1, ¶D** is amended to read:

D. The joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters shall use the following list as a guideline for scheduling reviews:

(1) Department of Public Safety, except for the division designated by the Commissioner of Public Safety to enforce the law relating to the manufacture, importation, storage, transportation and sale of all liquor and to administer those laws relating to licensing and the collection of taxes on malt liquor and wine and the Emergency Services Communication Bureau, in 2001; ~~and~~

(2) Department of Corrections in 2011; and;

(3) The Maine Emergency Management Agency within the Department of Defense, Veterans and Emergency Management in 2008.

**Sec. 10. Title 3, §959, sub-§1, ¶J** is amended to read:

J. The joint standing committee of the Legislature having jurisdiction over legal and veterans' affairs shall use the following schedule as a guideline for scheduling reviews:

(2) State Liquor and Lottery Commission in 2007;

(3) The division within the Department of Public Safety designated by the Commissioner of Public Safety to enforce the law relating to the manufacture, importation, storage, transportation and sale of all liquor and to administer those laws relating to licensing and the collection of taxes on malt liquor and wine in 2007; and

(4) Department of Defense, Veterans and Emergency Management in 2011, except for the Maine Emergency Management Agency within that Department.

**Sec. 11. 5 M.R.S.A. §1520, sub-§1 (B)** is amended to read

B. The Chief Information Officer, in conjunction with the agencies using the statewide radio and network system operating as a board that constitutes the Statewide Radio Network Board, shall establish the following:

- (1) Standards for statewide radio and network system operations;
- (2) Specifications for systems and components to be acquired by the State; and
- (3) Standards for the exemption or waiver of state agencies from the requirements of this section.

By January 15, 2002, standards must be developed for statewide radio and network system usage by all state agencies not exempted under subparagraph (3).

**Sec. 12. Radio frequency coordination for emergency planning.** The Statewide Radio Network Board shall develop protocols and procedures for frequency coordination throughout the state during major emergencies and shall include participation by and obtain memorandums of understanding from various stakeholders, including: Maine Emergency Management Agency, Maine Fire Chiefs Association, Maine Chiefs of Police, Maine Fire Protection Services Commission, Maine Sheriff's Association, the Maine State Police, Department of Public Safety, federal first responders, Maine Emergency Medical Services, Maine Hospital Association, and local public works and utilities. The Statewide Radio Network Board shall allocate no less than 6 public safety band radio frequencies to be used as multi-jurisdictional, county and state disaster channels. The Director of the Maine Emergency Management Agency shall develop a communications plan for multi-jurisdictional, regional and statewide disasters to ensure interoperability that includes participation with both public and private expected response partners, and local, county, state and federal stakeholders. The Statewide Radio Network Board and the Maine Emergency Management Agency shall report back to the Task Force to Study Maine's Homeland Security Needs on their progress in obtaining memorandums of understanding from the various stakeholders and the need for training the first responder community in the area of frequency use and operation by September 18, 2006.

**Sec. 13. Community outreach for emergency planning.** The Director of the Maine Emergency Management Agency shall coordinate with the Commissioner of Education to perform an assessment of the number of Maine public schools that have adopted an all-hazards approach to emergency preparedness. The Director of the Maine Emergency Management Agency and the Commissioner of Education shall coordinate their efforts for community outreach for all-hazards emergency planning. The Director of the Maine Emergency Management Agency shall report back to the Task Force to Study Maine's Homeland Security Needs on the emergency notification systems currently in place and shall provide recommendations on how these systems should be improved by September 18, 2006.

**Sec. 14. Emergency notification systems, evacuation plans and shelters.** The Director of the Maine Emergency Management Agency shall survey local Maine communities to gather information on the following: the types of emergency notification systems that are in place throughout the state; evacuation plans for nursing homes currently adopted throughout the state; and shelter capabilities throughout the state, with a focus on determining how shelters are designed to accommodate populations with special needs, particularly persons with disabilities. The Director shall report back by September 18, 2006 to the Task Force to Study Maine's Homeland Security Needs on the results of this survey and shall provide recommendations for improvement in these areas, with a focus on how to accommodate populations with special needs, particularly persons with disabilities.

**Sec. 15. Emergency planning in public schools.** The Commissioner of Education shall determine methods for incorporating emergency planning within the elementary and high school public school curriculum. The commissioner shall report by January 15, 2007 on the commissioner's findings and recommended changes to the education curriculum to the joint standing committee having jurisdiction over education and cultural affairs matters, and the joint standing committee having jurisdiction over criminal justice and public safety matters.



**Sec. 16. Report on Hospital Surge Capacity.** The Director of the Maine Center for Disease Control and Prevention, in conjunction with the Maine Hospital Association, shall update its recent survey of emergency health system capacity in Maine. The Director of the Maine Center for Disease Control and Prevention, in coordination with the Director of the Maine Emergency Management Agency with the Maine Hospital Association, shall develop recommendations to address Maine's acute medical and public health surge capacity and shall provide a report on these recommendations to the Task Force to Study Maine's Homeland Security Needs by September 18, 2006.

**Sec. 17. Report on Local Health Officers.** The Director of the Maine Center for Disease Control and Prevention, in conjunction with stakeholders and interested parties, shall study the qualifications and duties of local health officers in Maine and develop recommendations for enhancing the role of local health officers in emergency preparedness plans. The Director of the Maine Center for Disease Control and Prevention shall report back to the Task Force to Study Maine's Homeland Security Needs on the results of this study and proposed recommendations by September 18, 2006.

**Sec. 18. Regional Resource Centers.** The Director of the Maine Center for Disease Control and Prevention shall work with stakeholders to ensure that the Regional Resource Centers are provided sufficient funding resources to meet the goals of hospital and health system providers. The Director of the Maine Center for Disease Control and Prevention shall report back to the Task Force to Study Maine's Homeland Security Needs on the results of the Health Resources and Services Administration (HRSA) grant and contract with the Regional Resource Centers and proposed recommendations by September 18, 2006, as well as to the joint standing committee having jurisdiction over health and human services matters and the joint standing committee having jurisdiction over criminal justice matters by January 15, 2007.

## SUMMARY

This bill represents the interim recommendations of the Task Force to Study Maine's Homeland Security Needs. This bill authorizes the Governor to transfer up to three million dollars to the Disaster Relief Fund, unless the fund's balance exceeds three million dollars. It requires that any interest that accrues in the fund in excess of three million dollars must be transferred by the State Controller to the Budget Stabilization Fund. The bill also provides that the Disaster Relief fund may be used for the purpose of matching federal funds in the event of a federally declared disaster.

This bill proposes to require the Director of Maine Center for Disease Control and Prevention, located within the Department of Health and Human Services, to coordinate with the Maine Emergency Management Agency on the planning and expenditure of federal funds received by the Center for homeland security or bioterrorism prevention. The bill also requires the Center to report annually to the Health and Human Services Committee and the Criminal Justice and Public Safety Committee on the use of those funds.

This bill places all duties of the Maine Emergency Management Agency and its Director under the jurisdiction of the Joint Standing Committee on Criminal Justice and Public Safety and assigns that committee the responsibility of reviewing that Agency under the provisions of the State Government Evaluation Act. The bill states that the Director of the Maine Emergency Management Agency shall be qualified by education, training and experience in the emergency management profession and recommended by the commissioner and appointed by the Governor. It also provides that the director shall represent the Governor on all matters pertaining to the comprehensive emergency management program and the disaster and emergency response of the State. It requires the Director of the Agency to conduct periodic assessments of the use of state radio frequencies in emergency and directs the Director to develop and produce emergency preparedness public service announcements to be broadcasted regularly on local broadcasting networks. This bill proposes to require the Director of the Maine Emergency Management Agency to survey local Maine communities to gather information on the types of emergency notification systems that are in place throughout the state, evacuation plans for nursing homes currently adopted throughout the state and shelter capabilities throughout the state, with a focus on determining how shelters are designed to accommodate populations with special needs, particularly persons with disabilities.

This bill directs the Statewide Radio Network Board to develop protocols and procedures for frequency coordination throughout the state during emergencies and to work towards obtaining memorandums of understanding from various stakeholders, including the following: Maine Emergency Management Agency, Maine Fire Chiefs Association, Maine Chiefs of Police, Maine Fire Protection Services Commission, Maine Sheriff's Association, the Maine State Police, Department of Public Safety, federal first responders, Maine Emergency Medical Services, Maine Hospital Association, and local public works and utilities. The bill requires the Statewide Radio Network Board to report back to the Task Force to Study Maine's Homeland Security Needs on its progress by September 18, 2006. It clarifies that the Chief Information Officer and other agencies using the statewide radio and network system may operate as a board to establish standards for statewide radio and network system operations.

The bill directs the Director of the Maine Emergency Management Agency to coordinate with the Commissioner of Education to perform an assessment of the number of Maine public schools that have adopted an all-hazards approach to emergency preparedness and requires the Director of the Maine Emergency Management Agency and the Commissioner of the Maine Department of Education to coordinate their efforts for community outreach for all-hazards emergency planning. The bill requires the Director of the Maine Emergency Management Agency to report back to the Task Force to Study Maine's Homeland Security Needs with its findings and recommendations by September 18, 2006. This bill also proposes to require that all new schools must be designed to include back-up energy generators or be wired to accommodate portable energy generators for use as public shelters.

This bill also requires the Commissioner of Education to determine methods for incorporating emergency planning within the elementary and high school public school curriculum. It requires the commissioner to report back by January 15, 2007 with findings and proposed recommended changes to the education curriculum to the joint standing committee

having jurisdiction over education and cultural affairs matters, as well as the joint standing committee having jurisdiction over criminal justice and public safety matters.

Finally, this bill directs the Maine Center for Disease Control and Prevention, in conjunction with the Maine Hospital Association, to conduct a survey of emergency room capacity to determine the impact on hospital surge capacity. The bill requires the Center for Disease Control and Prevention, with the Maine Hospital Association, to report back to the Task Force to Study Maine's Homeland Security Needs on the results of this study by September 18, 2006. It also requires the Director of the Maine Center for Disease Control and Prevention to work with stakeholders to ensure that the Regional Resource Centers are provided sufficient funding resources and requires the Director to report back to the Task Force to Study Maine's Homeland Security Needs on the results of this study and proposed recommendations by September 18, 2006, as well as to the joint standing committee having jurisdiction over health and human services matters and the joint standing committee having jurisdiction over criminal justice matters by January 15, 2007.